

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

OSCAR PEREZ-LOPEZ §  
VS. § CIVIL ACTION NO. 1:14-CV-312  
FNU DORTCH, *et al.*, §

ORDER PARTIALLY ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff, Oscar Perez-Lopez, a prisoner currently confined at FCI Milan, proceeding *pro se* and *in forma pauperis*, filed what appeared to be a *Bivens*-type<sup>1</sup> complaint against numerous defendants.

The Court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends this civil rights action be dismissed without prejudice for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b).

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, and pleadings. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties. Plaintiff, however, did file a response requesting that his case be voluntarily dismissed. In addition, plaintiff requested the Court enter an order instructing the BOP to stop collecting the partial filing fees withdrawn from plaintiff's inmate trust account.

Regarding the latter, 28 U.S.C. § 1915(b)(1) states “[n]otwithstanding subsection (a), if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the **full** amount of a filing fee.” (emphasis added). No relief from an order directing payment

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<sup>1</sup>In *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), the Supreme Court recognized an individual's right to recover damages from federal officials for violations of constitutional rights.

of the filing fee should be granted for a voluntary dismissal. *Hatchet v. Nettles*, 201 F.3d 651 (5th Cir. 2000) (citing *Williams v. Roberts*, 116 F.3d 1126, 1128 (5th Cir. 1997).

ORDER

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **PARTIALLY ADOPTED** to the extent it recommends dismissal. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

**SIGNED** this the 11 day of May, 2015.



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Thad Heartfield  
United States District Judge